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E.O. 12958: N/A

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SUBJECT: A POSSIBLE SOLUTION TO THE BOT ISSUE?

REF: A. (A) ANKARA 3976

[B](#). (B) ANKARA 3343

[1](#)1. (SBU) Summary: An Enron executive says a "trial balloon" floated by the Energy Market Regulatory Authority (EMRA) has the potential to lead to a solution to the dispute between the GOT and BOT power generating companies over pricing and other contractual issues. The idea would be for EMRA to issue a ten-year unconditional license enabling the companies to continue operating under their existing contracts, but with the understanding that EMRA might trigger a "risk event" in 2009 (after the companies have repaid their loans) leading to a buy-out. Under those circumstances, Trakya Elektrik (Enron) would be willing to discuss with the GOT possible price concessions in return for protection against a 2009 buy-out. The executive also suggested that OPIC/EXIM agreement to tell the GOT that they would call their guarantees at a low trigger point (i.e., in response to relatively limited arrears) would enable the companies to lower their risk premium and thereby further lower their prices. Embassy will meet with EMRA President and Energy Ministry U/S early next week to get a better sense on whether the GOT is seriously considering this approach, though we will not mention the OPIC/EXIM guarantee issue. End Summary.

[1](#)2. (SBU) Enron Global Assets Vice President Lloyd Wantschek told us September 5 that, after months of bitter dispute with the GOT, he finally had seen a positive development: a "trial balloon" floated by EMRA that, in his view, could point the way toward a satisfactory solution to the dispute. (Note: As reported in reftels, the Energy Ministry has been using the new electricity law's requirement that companies, even those already in operation, apply for operating licenses from EMRA to pressure Trakya Elektrik (Enron) and Doga Enerji (Edison Mission) to lower tariffs. End note)

[1](#)3. (SBU) The idea, per Wantschek, would be for EMRA to issue a ten-year, unconditional license enabling the power companies to continue operating under their current contracts; however, the GOT would let it be known that it would seek to trigger a contractual "risk event" at the end of 2009, allowing it to buy out the projects for zero consideration in full compliance with the contracts. Wantschek explained that the contracts' buy-out provisions call for a series of payments over time, ending in 2008 (when the projects finish repaying lenders), so the cost to the GOT of a buy-out starting in 2009 would be zero, under the contract. To fulfill its legal requirement under the Electricity Law, EMRA would attach to the license non-binding suggestions on how the current contractual arrangements might be changed to conform with the transition to a market economy.

[1](#)4. (SBU) Wantschek said EMRA's issuance of a license along these lines would remove the "regulatory gun" pointed at the companies head and create a positive incentive for them to negotiate. Under these circumstances, Trakya/Enron would be prepared to sit down with the Energy Ministry (after issuance of the license) and try to negotiate a deal in which the company might "tilt" its price schedule (i.e., lower its tariff earlier than scheduled in return for higher-than-scheduled prices further down the road), as long as the GOT provided assurances there would be no zero-cost buy-out in [1](#)2009. If the GOT also agreed to provide the projects with natural gas at the same rate it charges state electricity producers (much less than what the projects now pay), this would allow them to offer a substantial reduction in tariffs.

15. (SBU) According to Wantschek, such a deal -- while not perfect -- would enable the Energy Ministry to achieve its goal of publicly announcing a reduction in tariffs, while keeping his company relatively satisfied and staying within the confines of the contracts. He also suggested that the deal would be even more palatable if official lenders -- OPIC, ExIm and Hermes -- were to agree to inform the GOT (as part of the deal) that they would call their guarantees at a relatively low threshold (eg. in response to a few months of arrears or arrears totaling, say, \$40 million). Such an explicit statement, Wantschek explained, would enable the company to reduce its risk premium and thereby further reduce costs.

16. (SBU) Wantschek expressed hope that the USG would indicate its support to the EMRA approach (stressing the importance of EMRA issuing an "unconditional" license), and that OPIC and ExIm would consider a statement along the lines he described. He subsequently called back to say he had discussed the idea in general terms with Energy U/S Demirbilek, who had invited him to return next week to talk with Minister Guler. Wantschek said that, in the meantime, he would try to contact Doga Enerji as well as OPIC/ExIm officials to get their views.

17. (SBU) Comment and Action Request: We plan to meet with EMRA President Gunay on September 8 and with Energy U/S Demirbilek on September 9. In those meetings, we will try to get a better sense of whether EMRA and the GOT are seriously considering EMRA's "trial balloon," without speaking for the companies or mentioning the OPIC/ExIm guarantee issue. Embassy would welcome Washington thoughts or guidance on this issue.
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